

sides. If the doctrine of that case be law, as understood by the counsel for the manufacturing company, it would be conclusive of the question as between the Company and the Bank, and hence the counsel of the Bank, seeming to feel the pressure of the case against him, has made a strong effort to shake its authority.

In many of its features it is like the case now before this Court, and, unquestionably, if the decision of Lord Lyndhurst is a true exposition of the law, the question between these parties must be considered as settled. It will be observed, upon reading his decision, that his Lordship placed his judgment upon the double ground that the machinery, being capable of removal without injury to itself and the building, and erected in a neighborhood where machinery of that kind is commonly removed, was not to be regarded as belonging to the inheritance, and that, under the circumstances of the case, as detailed in the opinion, it was not intended to be included in the property mortgaged.

The reporters of the case of *Trappes vs. Harter*, referring to the cases of *Boydell vs. M'Michael*, 1 *Crompton, Meeson & Roscoe*, 177, and *Hallen vs. Runder*, *ib.*, 266, suppose the authority of *Trappes vs. Harter* to be shaken, or at all events, that it must be regarded as having been decided on its own peculiar circumstances. But, upon examining these cases, I think it will be found that they do not impair the authority of Lord Lyndhurst's opinion in *Trappes vs. Harter*. The articles in *Boydell vs. M'Michael*, were unquestionably fixtures, and in a controversy between the mortgagees of the tenant, to whom the term and all the fixtures were expressly assigned, as a security for money lent, and the assignees of the tenant, who afterwards became a bankrupt, it was held that the fixtures were not goods and chattels within the order and disposition of the bankrupt, and did not pass to his assignees.

There was no question in that case that the articles were part of the freehold during the term, though the tenant had a right to remove them at the end of the term, and as the tenant assigned the term and the fixtures to the mortgagee, the latter